

REMARKS/ARGUMENTS

Claims 1-11, 13 & 17 have been canceled. Claims 12,14-16, 18-21 are pending in the application.

First Office Action dated 11/26/2004: the Examiner cited Kelley, Kreutzer, and Uccellini as relevant prior art but stated that claims 8 and 9 would be allowable if rewritten in independent form including all of the limitation of the base claim and any intervening claims. Claim 8 and 9 were directed to the lighting of the hand grip. The Applicant responded to the Office Action and included the claim limitations.

Second Office Action dated 05/31/05: the Examiner withdrew the allowable subject matter stating that the patent issued to Delorenzo Patent No. 6,415,732 created a 103(a) obviousness rejection. The Delorenzo patent disclosed a stainless steel railing on a boat having electrical wires coupled to a battery for powering a neon or fluorescent light. The Delorenzo lighted grab rail is permanently mounted to a boat, does not employ a strap system as the instant invention for temporary mounted, and would be considered moving rather than stationary as it does not provide any assistance to the individual for accessing a piling. For instance, if an exit is to be from the bow or transom of the boat, the Delorenzo handrail does not provide any assistance and could not be moved. Further, the lighted handrail depends on electricity

from the boat for illumination. The Applicant modified the claims to further distinguish the cited reference in its amendment.

Third Office Action dated 10/06/05: The Examiner added Patent 6,415,732 issued to Steele as the basis for a 102 (a) obviousness rejection. Steele discloses a cleat for securing a boat to a piling. The cleat, like any conventional cleat, includes an aperture for placing the end of a boat line there through. A review of the prosecution history of Steele demonstrates that Steele was originally rejected under 102 (e) as anticipated by Patent No. 6,487,984 issued to Pape. Pape also disclosed a temporary cleat for securement to the rod holder of a vessel. During the prosecution of his patent, Steele argued that "Pape did not teach a cleat comprising a leg, a pair of projections extending from the leg, and a hand grip aperture formed in the leg and means for adjustably mounting the cleat on a support, the mounting means including a strap and a slot formed in the cleat for receiving a strap, as set forth in Claim 1." The statement by Steele, and the acceptance by the Patent Office, would be disingenuous to believe that cleat having an enlarged center is non-obvious over the prior art unless it is understood that cleat is primarily used for securing the line of a boat by use of the projection extending from each leg. For this reason, a cleat that has a particular shape, namely, the use of projections extending from the leg that

allow engagement of the loop of a line. Without such projections, the loop of the line cannot be secured the device would be simply a handle.

The difference between a handle and a cleat is even more pronounced than the difference between the portable cleat of Steele and the portable cleat of Pape. The instant invention does not operate as a cleat and designed as a means for assisting an individual from getting on and off a vessel. This is not the same as preventing a boat from drifting which only need to prevent detachment from the piling. Sliding of the cleat along the piling would not affect the drifting of the vessel but fails to operate as a safe to use handgrip.

Any movement of a hand grip placed on a piling can be most dangerous to an individual getting on or off a vessel. For this reason, the Applicant's invention includes a means for engaging the wood piling and use of dual straps to prohibit rocking of the device and/or any vertical movement thereof. Further, the use of a flexible base is designed to prevent lateral movement of the handgrip, whereas the rigid base of Steele is designed for tying of a boat to a piling and includes the requirement of a slot formed in the base of the cleat for receiving of mounting strap. The use of a cleat secured to a piling is well known in the industry and has operated as a hand grab long before Steele. The Applicants

strap is mounted away from the handgrip. In other words, if the invention of Steele is modified to meet the applicants device, Steele invention would not operate for its intended function as a cleat. Similarly, if the Applicants invention is modified to meet Steele's disclosure, namely placement of the mounting strap though the cleat, the invention would not operate as intended. A cleat made from plastic holding a chemical light would have no structural support for the weight of a boat.

Further, none of the references use the claimed source of illumination. All the other references teach a portable sling for carrying an object. Kelley teaches a portable sling for carrying a thermos bottle with a flashlight attached. There is no motivation to combine a lighted grab rail on a boat with the portable carrying slings of the other references and, even if there were motivation, the combination would not teach one of ordinary skill in the art to make a stationary handle to attach to an immovable piling.

The art applied in the rejections does not address the problem solved by the instant invention. These claims have been amended to recite the environment of use and the intended function of the instant invention. In particular, the environment is directed and limited to pilings found on piers. The pilings are constructed of wood and are defined as the vertical support for decking on piers.

Pilings are fixed into the bedding beneath the water and extend out of the water a distance for support of the pier. The weathered nature of the pilings make it dangerous for someone to use as a handhold since the weather wood is subject to splintering and cement provides no frictional surface. Despite this, individuals who use a pier especially older individuals and those who are not sure footed, use the pilings to steady them for entry and existing of boats moored along the pier.

In view of these remarks and the amendment to the claims, none of the references applied in the rejections anticipates the claimed invention and the combinations of the references do not make it obvious to one of ordinary skill in the art to make or use the claimed invention.

The applicant's disclosure is the only thing that connects these disparate references together. It is well settled in patent law that the applicant's disclosure cannot be used against him, or stated another way, the test for obviousness is at the time of the invention, not after reading the disclosure.

For these reasons, the Applicant requests re-examination and reconsideration of this application for patent pursuant to 35 U.S.C. 132.

Rejection under 35 USC 103(a)

Claims 1,7,10,12,14,16,18, 19, 20 and 21 stand rejected as obvious in view of Kelley, Kreutzer and Delorenzo. Claims 1-11 are canceled. Kelley teaches a flashlight with a sling for carrying a thermos bottle so the user can see the receptacle for the liquid in the bottle. Kreutzer teaches a sling with belts for carrying things, like connecting a tire. The sling has a hollow handle for other implements. Delorenzo teaches a boat having a lighted grabrail. There is no motivation for combining these dissimilar devices and functions and even if there were, the result would not be a stationary handle for mounting on an immovable piling for stabilizing movement onto or off a boat.

Claims 2, 13, 20 and 21 stand rejected as obvious in view of Kelley, Kreutzer and Uccellini. None of these references have anything to do with boats or boating or stabilizing passengers getting on and off boats. Neither Kelley nor Kreutzer mention nor have need of a raised inner surface for lifting the thing carried by their slings. There is no motivation for combining the raised inner surface of Uccellini with the slings of Kelley and Kreutzer and even if there were, the combination would not teach one of ordinary skill in the art to make a stationary illuminated handle for supporting passengers onto or off a boat.

Claim 15 stands rejected as obvious in view of Kelley and Kelley and Kreutzer. It is respectfully submitted that the use of

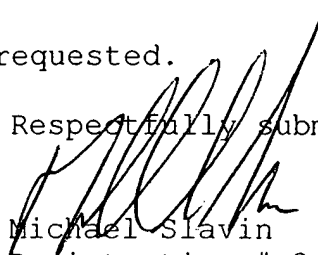
wood as a material does not provide the ability for Kelley to incorporate a flashlight in the handle, nor does it have any benefit for carrying wheels in the device disclosed by Kreutzer. However, it is well known that a wood against wood provide superior frictional engagement and operates to enhance the safety of the individuals using the Applicants device. Thus, reconsideration is respectfully requested of this rejection.

Claim 20 was added as there is no reference for a safety handle that limits the environment to a vertical piling with a textured surface so that the handle will not slide along the vertical piling when attached.

SUMMARY

The Examiner is authorized to charge any fees associated with this response to Deposit Account No. 130439. In light of the foregoing remarks and amendment to the claims, it is respectfully submitted that the Examiner will now find the claims of the application allowable. Favorable reconsideration of the application is courteously requested.

Respectfully submitted,


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